

EXHIBIT E

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CASIE JO MCGEE and SARAH ELIZABETH
ADKINS; JUSTIN MURDOCK and WILLIAM
GLAVARIS; and NANCY ELIZABETH
MICHAEL and JANE LOUISE FENTON,
individually and as next friends of A.S.M., a minor
child;

Plaintiffs,

v.

KAREN S. COLE, in her official capacity as
CABEL COUNTY CLERK; and VERA J.
MCCORMICK, in her official capacity as
KANAWHA COUNTY CLERK;

Defendants,

and

STATE OF WEST VIRGINIA;

Defendant-Intervenor.

No. 3:13-cv-24068

Hon. Robert Chambers

AFFIDAVIT OF ELIZABETH LITTRELL

Personally appeared before the undersigned officer duly authorized to administer oaths,
ELIZABETH LITTRELL, who, after being duly sworn, deposes and says as follows:

1. My name is Elizabeth Littrell. I am a member of the State Bar of Georgia, Senior
Attorney for Lambda Legal Defense and Education Fund, Inc. ("Lambda Legal"). I am legally
competent to make this affidavit and have personal knowledge of the facts set forth herein.

2. Attorney's Experience and Qualifications:

A. Schooling. I received my undergraduate degree in 1998, *cum laude*, from Georgia State University prior to attending Georgia State University College of Law, where I received my *Juris Doctorate* in 2001.

B. Previous Employment. From January 2001 through May 2007, I worked at the American Civil Liberties Union of Georgia, first as a staff attorney and later as the Associate Legal Director. During my tenure, I was involved in numerous significant constitutional cases. I researched and drafted legal memoranda and briefs, as well as coordinated and presented workshops to attorneys and school officials on emerging legal issues surrounding First Amendment rights, constitutional litigation and constitutional claims in the public and private school setting. From August of 2001 through January 2007, I taught First Amendment law as an adjunct professor at Georgia State University.

C. Current Employment. In May of 2007, I became a staff attorney for Lambda Legal, where I have continued to practice constitutional litigation with an expertise in issues affecting LGBT individuals and families. Due to my extensive and ongoing research on various constitutional issues, I also routinely give speeches and presentations to students, law students, lawyers, teachers, non-profit organizations and at various conferences.

3. Hourly Rate. I am requesting an hourly rate of \$300.00 per hour for the time spent on this case. This fee is below the market rate for a civil rights attorney in Atlanta with my qualifications and is in line with the hourly rate I have been awarded in fee affidavits pursuant to 42 U.S.C. §1988 litigation several years ago. *See Kennedy v. Avondale Estates*, 2007 U.S. Dist. LEXIS 18608 (N.D. Ga. Mar. 15, 2007) (awarding \$250 hourly rate, “[g]iven the education and

experience of each of the above attorneys, as well as their positions of leadership within the legal community, and the complex constitutional issues involved in this case, the Court finds the above requested rates to be reasonable.”). I believe this rate is reasonable in light of my education, qualifications and experience.

4. Hours and Expenses. The document attached hereto as Exhibit “1” is a true and correct compilation of the contemporaneously made time records I have maintained for services performed in this case. My time records have been edited to reduce time entries which seem to me excessive, redundant, or inefficient, and in accordance with the exercise of my prudent billing judgment, itemize the time actually spent and the tasks performed. They represent a specific division of labor with co-counsel. It is my opinion that the amounts of billable time and expenses described represent a reasonably frugal use of attorney time and expenses, in light of the issues presented in this case, its factual posture, and the results achieved. At the reasonable hourly rate of \$300, the cost of attorneys’ fees for my participation in this litigation as of the date of filing this fee petition is \$47,310.

FURTHER AFFIANT SAITH NOT.


Elizabeth Littrell

Sworn and subscribed
before me this 1st day
of December, 2014.

Notary Public



My commission expires:

(NOTARY SEAL)



EXHIBIT 1

United States District Court
Southern District of West Virginia
CASE #: 3:13-cv-24068
MCGEE et. al. v. COLE et. al.

Attorney B. Littrell Time

United States District Court

Southern District of West Virginia (Huntington)

CASE #: 3:13-cv-24068

MCGEE ET AL V. COLE ET AL

Attorney B. Littrell Time - Communication

Communication Log

| Date | time | method | topic |
|----------|------|--------|--|
| 7/22/13 | 0.3 | emails | co-counsel, potential plaintiffs |
| 8/8/13 | 0.6 | emails | co-counsel, potential plaintiffs, marriage statutes, venue |
| 8/13/13 | 0.8 | emails | notes from potential plaintiff interviews |
| 8/21/13 | 0.4 | emails | notes from potential plaintiff interviews |
| 8/22/13 | 0.8 | emails | notes from potential plaintiff interviews |
| 8/22/13 | 0.6 | emails | co-counsel agreement |
| 9/19/13 | 0.3 | emails | notes from potential plaintiff interviews |
| 9/20/13 | 0.4 | emails | complaint |
| 10/21/13 | 0.3 | emails | M to Extend Time to File a Resp |
| 10/21/13 | 0.2 | emails | Resp to McCormick M |
| 10/22/13 | 0.2 | emails | Order re M to extend time |
| 11/22/13 | 0.3 | emails | M to Intervene (WV) |
| 11/26/13 | 0.4 | emails | M to Dismiss (McCormick) |
| 12/2/13 | 0.3 | emails | Order |
| 12/16/13 | 0.2 | emails | M to Dismiss (Cole) |
| 12/16/13 | 0.3 | emails | M to Dismiss (WV) |
| 12/18/13 | 0.3 | emails | SJ M |
| 12/2/13 | 0.5 | emails | scheduling order /burford abstention arguments |
| 12/13/13 | 0.5 | emails | opp to M to Dismiss |
| 12/9/13 | 0.4 | emails | opp to M to Dismiss |
| 12/19/13 | 0.6 | emails | opp to M to Dismiss |
| 12/23/13 | 0.4 | emails | opp to M to Dismiss |
| 12/23/13 | 0.3 | emails | supp authority - Kitchens |
| 12/31/13 | 0.4 | emails | responding to M to Stay |
| 1/6/14 | 0.9 | emails | responding to M to Strike |
| 1/22/14 | 1.2 | emails | briefing schedule (with co-counsel and opp counsel) |
| 1/29/14 | 0.4 | emails | amending complaint |
| 2/6/14 | 0.6 | emails | amending complaint |
| 2/6/14 | 1.2 | call | amending complaint/filing a memo (response to Order) |
| 2/7/14 | 0.4 | emails | amending complaint |
| 2/10/14 | 1.2 | call | response to court's Order |
| 2/12/14 | 0.8 | emails | abstention memo |
| 2/13/14 | 0.8 | call | abstention memo |
| 2/13/14 | 0.6 | emails | to clients updating on case |
| 2/17/14 | 0.5 | emails | MSJ resp |
| 2/19/14 | 0.4 | emails | deadlines and mailing rule |
| 2/24/14 | 0.7 | emails | MSJ |
| 2/24/14 | 1.1 | emails | adding plaintiffs |
| 2/25/14 | 0.3 | emails | adding plaintiffs |
| 3/3/14 | 0.7 | emails | reply to respon |
| 3/17/14 | 0.2 | emails | supp authority - TN |

United States District Court
Southern District of West Virginia (Huntington)
CASE #: 3:13-cv-24068
MCGEE ET AL V. COLE ET AL
Attorney B. Littrell Time - Communication

| | | | |
|----------|-----|--------|-----------------------------------|
| 7/28/14 | 0.4 | emails | to clients updating on case |
| 7/29/14 | 0.8 | emails | resp to M to stay |
| 9/5/14 | 0.5 | emails | suppl authority |
| 10/6/14 | 0.4 | emails | to clients updating on case |
| 10/7/14 | 0.7 | emails | M for judgment on pl |
| 10/7/14 | 0.4 | emails | to clients updating on case |
| 10/7/14 | 1.3 | emails | settlement |
| 10/9/14 | 1.1 | emails | settlement |
| 10/20/14 | 0.8 | emails | response in opp to our M for judg |
| 10/21/14 | 0.9 | emails | reply to response |
| 11/7/14 | 0.5 | emails | to clients updating on case |

Total 29.6

**United States District Court
Southern District of West Virginia (Huntington)**

CASE #: 3:13-cv-24068

MC GEE ET AL V. COLE ET AL

Attorney B. Littrell Time

| Date Filed | time | task | pleading |
|------------|------|---|---------------------------------|
| | | | |
| 8/18/13 | 8 | traveled to WV (8), met with potential plaintiffs, potential local counsel | |
| 8/19/13 | 6.5 | met with potential plaintiffs (6), potential local counsel | |
| 8/20/13 | 2.5 | met with potential local counsel | |
| 8/21/13 | 8 | traveled from WV (8) | |
| 8/23/13 | 5.4 | drafted | client declarations |
| 9/22/13 | 7.4 | traveled to WV (5), met with clients (2.4), filing intended but post-poned based on unforeseen last-minute problems | |
| 9/24/13 | 5 | traveled from WV (5) | |
| 9/19/13 | 10.3 | met w/ co-counsel(2.8), case strategy | |
| 9/20/13 | 1.8 | reviewed/revised | complaint |
| 9/24/13 | 0.8 | drafted | PHV motion |
| 9/30/13 | 7.9 | traveled to WV (5), met with clients (1.4), finalized complaint, prepared for press conf (1.5) | |
| 10/1/13 | 1.2 | press conference | |
| 10/1/13 | 5 | traveled from WV | |
| 10/3/13 | 0.7 | reviewed/revised | notice of const question |
| 10/21/13 | 0.3 | Reviewed | M to Extend Time to File a Resp |
| 10/21/13 | 2.3 | reviewed/revised | Resp to McCormick M |
| 10/22/13 | 0.2 | reviewed | Order re M to extend time |
| 11/22/13 | 0.7 | reviewed/notes | M to Intervene (WV) |
| 11/26/13 | 0.4 | reviewed | M to Dismiss (McCormick) |
| 12/2/13 | 0.3 | reviewed | Order |
| 12/15/13 | 2.4 | researched (abstention) | |
| 12/16/13 | 0.4 | reviewed | M to Dismiss (Cole) |
| 12/16/13 | 1.2 | reviewed/notes | M to Dismiss (WV) |
| 12/18/13 | 4.3 | reviewed/revised | SJ M |

**United States District Court
Southern District of West Virginia (Huntington)**

CASE #: 3:13-cv-24068

MC GEE ET AL V. COLE ET AL

Attorney B. Littrell Time

| Date Filed | time | task | pleading |
|-------------------|-------------|-----------------------|---|
| 12/19/13 | 0.6 | co-counsel discussion | Rule 26(f) Report |
| 12/19/13 | 3.4 | reviewed/revised | Resp to M to Dismiss |
| 12/21/13 | 1.8 | reviewed/revised | Resp to M to Dismiss |
| 12/30/13 | 0.6 | reviewed | Reply |
| 12/31/13 | 0.3 | reviewed | M to Stay |
| 1/3/14 | 0.3 | reviewed | M to Strike Supp Auth |
| 1/5/14 | 0.4 | reviewed/revised | Resp to M to Strike |
| 1/6/14 | 1 | co-counsel discussion | scheduling conf |
| 1/9/14 | 0.7 | reviewed | Reply (M to Dismiss) |
| 1/10/14 | 0.3 | reviewed | Order on M to Stay |
| 1/13/14 | 0.2 | reviewed | Reply to Resp in Opp M to Strike |
| 1/17/14 | 0.2 | reviewed | Order |
| 1/24/14 | 0.4 | reviewed | M to Amnd Deadline to Resp |
| 1/26/14 | 0.8 | reviewed/revised | Resp in Opp to M to Amnd |
| 1/29/14 | 0.8 | reviewed/notes | Order |
| 2/9/14 | 2.8 | reviewed/revised | Resp to Court Order/Opp M to Dismiss |
| 2/12/14 | 0.8 | reviewed | M for SJ |
| 2/12/14 | 0.6 | reviewed | WV Answer |
| 2/12/14 | 2.2 | reviewed/notes | Cross M by WV for Summ and Opp to PLs SJM and Exhibits |
| 2/14/14 | 0.6 | reviewed | M of Family Policy as Amicus |
| 2/17/14 | 4.8 | drafted | Sect. IV of SJ |
| 2/18/14 | 6.3 | drafted | SJ M |
| 2/19/14 | 0.8 | reviewed | Resp to PLs 61 |
| 2/19/14 | 0.6 | reviewed | M to Dismiss |
| 2/23/14 | 2.2 | reviewed/revised | Replies in Opp 63,66,67 |
| 2/25/14 | 1 | reviewed | Reply to 63,66,67 |
| 3/14/14 | 0.8 | reviewed | Replies to 89 |
| 4/15/14 | 0.7 | reviewed | WV Notice of Supp Auth |
| 6/10/14 | 0.4 | reviewed | Order Staying decision |
| 7/29/14 | 0.4 | reviewed | M to Continue Merits Stay |
| 7/28/14 | 1.9 | reviewed/revised | Resp in Opp to M to Stay |
| 7/30/14 | 0.6 | reviewed | Resp to 127 |
| 7/30/14 | 0.4 | Reviewed | Resp to PLs 127 |

**United States District Court
Southern District of West Virginia (Huntington)**

CASE #: 3:13-cv-24068

MCGEE ET AL V. COLE ET AL

Attorney B. Littrell Time

| Date Filed | time | task | pleading |
|------------|------|-----------------|---|
| 9/11/14 | 1.2 | drafted | Suppl Auth (9th) - Authority, with proposed document attached - Baskin v. Bogan (7th Circuit), Robicheaux v. Caldwell, Brenner v. Scott, In re Estate of Bangor |
| 10/5/14 | 1.3 | drafted/revised | Am Motion to Lift Stay/Enter Judgment |
| 10/7/14 | 0.4 | reviewed | Order lifting Stay |
| 10/20/14 | 0.5 | reviewed | Resp to Pls 132 |
| 10/22/14 | 1.2 | revised | Reply to Pls 134-137 |
| 11/7/14 | 0.8 | reviewed | Order |

128

litigation

29.6

communications

158 \$

47,310.00 total (at \$300/hour)